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No. 9 ORIGINAL

In the Supreme Court of the United States

OCTOBER TERM, 1965

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATE OF LOUISIANA, ET AL.

ANSWER OF THE STATE OF LOUISIANA TO THE MOTION OF THE UNITED STATES FOR ENTRY OF A SUPPLEMENTAL DECREE (NO. 1), AND MEMORANDUM ACCOMPANYING ANSWER

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ANSWER OF THE STATE OF LOUISIANA TO THE MOTION OF THE UNITED STATES FOR ENTRY OF A SUPPLEMENTAL DECREE (NO. 1)

The STATE OF LOUISIANA, through the Attorney General of Louisiana, and other undersigned counsel, hereby responds to the motion of the United States for entry of a supplemental decree (No. 1) in the above entitled cause, as follows:

1.

This appearance is filed by the State of Louisiana with full reservation of and without prejudice to its coast line as designated and defined by agencies of the Federal Government under applicable Acts of Congress, including Louisiana's historic bays, inlets, sounds and waters. It is also filed without prejudice to Louisiana's historic boundary as fixed by Congressional Act of its admission into the Union on April 8, 1812; and in the event of the recognition hereafter of its historic three-league boundary (whether by Act of Congress or otherwise), Louisiana specifically reserves its right to assert that historic boundary and to require

in appropriate proceedings the United States to restore any funds which may be released to it as a result of this proceeding.

2.

Louisiana's coast line has been designated and defined by agencies of the Federal Government under applicable Acts of Congress and accepted and approved by Louisiana through Act 33 of the Legislature of Louisiana for 1954, wherein it is described as follows:

> "From Ship Island Lighthouse to Chandeleuer Lighthouse; thence in a curved line following the general trend of the seaward, high-water shore lines of the Chandeleuer Islands to the Southwesternmost extremity of Errol Shoal; thence to Pass-a-Loutre lighted whistle buoy 4 to South Pass Lighted whistle buoy 2; thence to Southwest Pass entrance midchannel lighted whistle buoy; thence to Ship Shoal Lighthouse; thence to Calcasieu Pass lighted whistle buoy 1; thence to Sabine Pass lighted whistle buoy 1, as designated and defined under authority of the Act of Congress of February 19, 1895, 28 Stat. 672, 33 U.S.C. 151 as amended, . . ."

3.

It is recognized by the State of Louisiana that this Court in *United States v. Louisiana*, 363 U.S. 1 (formal decree, 364 U.S. 502) decreed that as against the State of Louisiana the United States is entitled to all lands, minerals and other natural resources underlying the Gulf of Mexico more than three geographic miles seaward from Louisiana's coast line and that this decision and decree had the effect of modifying the Interim

Agreement of October 12, 1956, between the United States and the State of Louisiana insofar as it relates to the impoundment of funds accruing from the area lying more than three miles seaward of Louisiana's coast. No agreement has been reached in this litigation as to the coast line, but Louisiana recognizes that the request of the United States for the distribution of funds from the area described in paragraph 1 of the proposed decree is a logical application of the principles announced in *United States v. Louisiana*, *supra*. However, by Section 2 of Act 311 of the Louisiana Legislature of 1964 (LRS 30:179.12) no final agreement or stipulation which releases to the United States any part of the funds impounded under the Interim Agreement of October 12, 1956, can be made by the State of Louisiana unless such agreement or stipulation shall have been ratified by a majority of both Houses of the Louisiana Legislature.

4.

Subject also to the reservation set forth in Paragraph 1 hereof, and without in any way conceding the correctness of the interpretation of the Geneva Convention as contended for by the United States in limiting the area now conceded to belong to Louisiana and as set forth in the Government's memorandum in support of its motion for the proposed decree, the State of Louisiana also recognizes that the areas landward of the adjusted landward boundaries of Zone 2, recognized in the motion of the United States to belong to Louisiana and described in Paragraph 3 of the proposed decree, generally lie well landward of its coast line,

though paragraph 3(d) of the proposed decree is based upon low water mark as referred to in the Submerged Lands Act instead of the high water mark along Chandeleuer Islands as referred to in Act 33 of 1954. Acceptance of the small area between high water mark and low water mark is without prejudice to Louisiana's coast line and all of the area remaining in dispute. Subject to these reservations, it is appropriate for the Court to decree that the State of Louisiana is entitled as against the United States to all the lands, minerals and other natural resources underlying the areas landward of the adjusted boundaries of Zone 2 and to direct that the United States release and pay to Louisiana, within the time stipulated in Paragraph 7 of the proposed decree, the impounded funds attributable thereto.

5.

Subject to the reservations hereinabove set forth and also considering particularly the provisions of Paragraph 10 of the proposed decree and the decree of December 12, 1960, the State of Louisiana cannot offer objection to the decree submitted to the Court by the United States and also recognizes that oral arguments on the Government's Motion and proposed decree are not necessary.

6.

Louisiana proposes promptly either to initiate proceedings or to cooperate in proceedings initiated by

the United States to determine the title to areas remaining in dispute.[1]

Respectfully submitted,

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[1]The dispute as to the coast line will undoubtedly require the services of a Special Master to consider the massive evidence entailed in resolving the respective contentions of the parties.

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MEMORANDUM ACCOMPANYING LOUISIANA'S ANSWER TO THE MOTION OF THE UNITED STATES FOR SUPPLEMENTAL DECREE (No. 1)

The purpose of the Motion filed by the United States is to give effect to the decree of this Honorable Court of December 12, 1960 with respect to certain areas offshore of the State of Louisiana, which the United States does not claim adversely to Louisiana by proprietary or paramount or any other kind of right, and with respect also to the area more than three miles seaward of the line marking Louisiana's coast. The Motion of the United States does not purport to settle this litigation concerning the intermediate areas constituing the remainder of the areas in controversy which are extensive in some places.

Louisiana views the three mile limit as an encroachment upon its historic boundary which is far more important than the dollars which may result from minerals produced from the adjoining two leagues.

Nevertheless, Louisiana must abide by the 1960 decree so long as it is not modified by this Court or its effect is not altered by Congress; and while the decree stands unaltered, Louisiana must and does acknowledge that the claim made by the United States in its Motion to the two league area lying seaward of Louisiana's coast and the money accumulated from that area is a logical application of the decree.

The areas which the Motion concedes to Louisiana generally lie well within Louisiana's coastline and there is no reason why Louisiana should object to such an acknowledgment by the United States and no reason why Louisiana should object to receiving revenue from these areas now impounded or otherwise held by the United States.

The Motion of the United States acknowledges that determination of the controversy as to the remaining area in dispute involves serious issues, and the decree proposed by the United States would explicitly declare that it shall not "prejudice any rights, claims or defenses of the United States or of the State of Louisiana with respect to the remainder of the disputed area or past or future payments derived therefrom or attributable thereto or the operation of the Interim Agreement of October 12, 1956, as amended, with respect to such area and payments." If this reservation is included in the proposed decree, Louisiana cannot say that it is not within the scope of the December 12, 1960 decree.

Nonetheless, respect for itself and for this Court requires Louisiana to make the reservations stated in

its response to the Motion of the United States that it is without prejudice to its coastline as designated and defined under applicable Acts of Congress, including Louisiana's historic bays, inlets, sounds and waters and without prejudice to its historic boundary as fixed by Congress upon the admission of Louisiana into the Union, in the hope that subsequent recognition will result in the restoration of territory and funds which the United States will receive under the proposed decree.

The Memorandum of the United States in some respects touches upon issues of fact and law as to areas not dealt with in the proposed Supplemental Decree which will require consideration for the proper disposition of the area remaining in dispute even under the December 12, 1960 decree.

We refer especially to the statement on page 13 of the memorandum that Louisiana's claim relates to a line which the United States says was established in 1953 to delimit the waters in which vessels should observe inland rules of navigation. This statement falls far short of all the Court should know to make its declaration as to Louisiana's coastline to effectuate the Submerged Lands Act of 1953.

Louisiana wants the Court to know that Louisiana believes it can show that Congress has indeed caused the coast of the United States off Louisiana to be designated and defined and put on official charts recognized throughout the world and that this designation of the coast of the United States necessarily also designated and defined the coast of Louisiana. Louisiana

believes it can also show that the designation not only was within the scope of the powers of Congress viewed as a domestic matter but also within the rules of international law now codified by the Geneva Convention on the Territorial Sea and the Contiguous Zone in the light of the pertinent facts of history, geography, economy and all other bases for designating a coast and marking the line of demarcation between inland waters and the open sea.

Louisiana has noted in its Answer to the Motion of the United States that the dispute will undoubtedly require the services of a Special Master to consider the massive evidence entailed in this matter and this proceeding must not prejudice Louisiana's right to a full determination of the remaining issues.

Respectfully submitted,

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PROOF OF SERVICE

The undersigned, being one of the attorneys for the State of Louisiana, defendant herein, and a member of the Bar of the Supreme Court of the United States, certify that on the _____ day of November, 1965, I served copies of the foregoing Answer and accompanying Memorandum by leaving copies thereof at the offices of the Attorney General and of the Solicitor General of the United States, respectively, in the Department of Justice Building, Washington, D. C.

JOHN L. MADDEN

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